

Message Text

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ORIGIN AEC-11

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FM SECSTATE WASHDC

TO AMCONSUL BOMBAY PRIORITY

INFO AMEMBASSY NEW DELHI

C O N F I D E N T I A L STATE 201108

E.O. 11652: GDS

TAGS: IAEA, TECH, ESTC

SUBJ: INDIA'S UNAUTHORIZED TRANSFER OF U.S.-SUPPLIED

NUCLEAR MATERIAL

REF: NEW DELHI 11687 WHICH REPEATED BOMBAY 1957

1. FOR MAXIMUM CLARITY AND EMPHASIS ON BASIC POINTS,
RECOMMEND TEXT OF LETTER BE MODIFIED TO READ AS FOLLOWS:

2. BEGIN TEXT. DEAR CHAIRMAN SETHNA: I SHOULD LIKE TO
THANK YOU FOR YOUR LETTER OF SEPTEMBER 7, 1973, AND YOUR
KINDNESS IN TAKING TIME OVER THE PAST SEVERAL WEEKS TO
DISCUSS WITH US THE SHIPMENT TO GERMANY BY INDIA OF U.S.-
ORIGIN NUCLEAR MATERIAL. AS A RESULT OF THESE DISCUSSIONS,
I BELIEVE THAT WE HAVE REACHED A COMMON UNDERSTANDING ON
THE FOLLOWING POINTS:

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A. ARTICLE SEVEN OF THE AGREEMENT FOR COOPERATION BETWEEN INDIA AND THE UNITED STATES REFERS SPECIFICALLY TO TRANSFERS OF NUCLEAR MATERIAL BEYOND GOI JURISDICTION. IN THIS PROVISION, WHICH IS COMMON TO ALL U.S. AGREEMENTS FOR COOPERATION IN THE NUCLEAR FIELD, JURISDICTION IS NOT INTERPRETED TO MEAN OWNERSHIP. ACCORDINGLY, NO US-SUPPLIED MATERIAL MAY BE TRANSFERRED BEYOND GOI JURISDICTION WITHOUT PRIOR U.S. AGREEMENT, WHETHER OR NOT THE GOI RETAINS OWNERSHIP OF THE MATERIAL.

B. COMPLETE IMPLEMENTATION OF THE TRILATERAL AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF INDIA, AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA REQUIRES THE PROMPT EXECUTION AND SUBMISSION TO THE IAEA OF THE JOINT NOTIFICATIONS CALLED FOR IN SECTION SEVEN OF THAT AGREEMENT. THE PURPOSE OF THE TRILATERAL IS TO PROVIDE FOR IAEA IMPLEMENTATION OF THE SAFEGUARDS PROVISIONS OF THE BILATERAL AGREEMENT FOR COOPERATION WITH RESPECT TO MATERIALS, EQUIPMENT AND DEVICES MADE AVAILABLE TO THE GOI THEREUNDER. IT IS, OF COURSE, THE JOINT NOTIFICATION REQUIRED BY SECTION SEVEN OF THE TRILATERAL THAT MAKES SUCH MATERIALS, EQUIPMENT AND DEVICES NOT ON THE INITIAL INVENTORY SUBJECT TO THE TRILATERAL, AND BRINGS INTO OPERATION OTHER PROVISIONS OF THE TRILATERAL, E.G. SECTIONS NINE, TEN, AND ELEVEN. WE ARE PLEASED, THEREFORE, THAT THE DEPARTMENT OF ATOMIC ENERGY HAS TAKEN ACTION TO COMPLETE OUTSTANDING JOINT NOTIFICATION FORMS AND THAT YOU ARE PLACING IMPORTANCE ON THE PROMPT SUBMISSION OF FUTURE NOTIFICATIONS.

C. SECTION FOUR OF THE TRILATERAL AGREEMENT SUSPENDS THE RIGHTS OF THE UNITED STATES TO IMPLEMENT THE SAFEGUARDS PROVISIONS OF ARTICLE SIX OF THE AGREEMENT FOR COOPERATION WHILE MATERIALS, EQUIPMENT AND DEVICES ARE SUBJECT TO THE TRILATERAL. HOWEVER, SECTION FOUR DOES NOT AFFECT OTHER PROVISIONS OF THE BILATERAL AGREEMENT FOR COOPERATION, INCLUDING THE GUARANTEES SET FORTH IN ARTICLE SEVEN.

IN THE EVENT YOU SHOULD HAVE A DIFFERENT UNDERSTANDING OF THE RESULTS OF OUR DISCUSSIONS, I SHOULD APPRECIATE YOUR CONFIDENTIAL

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INFORMING ME. END TEXT.

3. PURPOSE OF DISCUSSING DRAFT WITH SETHNA IS, OF COURSE, SOLELY TO MAKE SURE HE UNDERSTANDS ALL POINTS AND TO REVIEW WITH HIM, IF NECESSARY, THE PERTINENT PROVISIONS OF BILATERAL AND TRILATERAL AGREEMENTS. WE HOPE DISCUSSION AND DELIVERY OF LETTER CAN TAKE PLACE WITHOUT DELAY. PLEASE REPORT AS SOON AS POSSIBLE. KISSINGER

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